

Administrative Hearings



The mission of the Office of Administrative Hearings is to provide a neutral forum for the fair and impartial resolution of the license revocations initiated by the Division of Motor Vehicles.

OFFICE OF ADMINISTRATIVE HEARINGS

John Hackney, Director



P.O. Box 11750
Charleston, WV 25317

Phone: 304. 558.2723
800.642.9066
Fax: 304.558.1987
Email: oah@wv.gov

John G. Hackney Jr., Presiding judge, of Charleston, Kanawha County, WV. Appointed to West Virginia Court of Claims for a six year term beginning July 1, 2007; resigned from the Court, effective January 10, 2011 to accept appointment as Director and Chief Hearing Examiner for the Office of Administrative Hearings. Born March 11, 1952, in Charleston, son of John Grant Hackney and Harriett W. Hackney. Married to Martha D. Hackney; children, Johanna H. Hackney and Joshua E. Hackney. Education: Kanawha County Public Schools; West Virginia University (B.A., 1974, Cum Laude); Tulane University, New Orleans, Louisiana (J.D. 1982). Admissions: Louisiana State Bar 1982; West Virginia State Bar 1983; United States District Court, Southern District of West Virginia 1983; United States Court of Appeals for the Fourth Circuit 1988. Clerk, United States Attorney's office, New Orleans, Louisiana 1981-1982. Assistant Prosecuting Attorney, Kanawha County Prosecuting Attorney's office 1983-1988. Hearing Examiner, West Virginia State Senate, Counsel to Agriculture, Natural Resources and Military Committees 1990-1991; Assistant Attorney General, West Virginia Attorney General's office (Division of Higher Education) 1991-1993. Private Law Practice 1988-1991, 1994-2010. Sponsor and Coach, Central Youth League T-Ball and Baseball, Kanawha County 1990-1998. Member of the First Presbyterian Church in Charleston.

CREATION OF AGENCY

Senate Bill 186 which passed during the 2010 Regular Session creates the Office of Administrative Hearings and became effective on June 11, 2010. The purpose of the Office of Administrative Hearings is to hold administrative hearings for all license revocation orders issued by the West Virginia Division of Motor Vehicles. Relevant portions of the Bill that create the Office of Administrative Hearings are below:

§17C-5C-3. Jurisdiction of Office of Administrative Hearings.

The Office of Administrative Hearings jurisdiction to hear and determine all:

1. Appeals from an order of the Commissioner of the Division of Motor Vehicles suspending a license pursuant to section eight, article two-B, chapter seventeen-B of this code;
2. Appeals from decisions or orders of the Commissioner of the Division of Motor Vehicles suspending or revoking a license pursuant to sections three-c, six and twelve, article three, chapter seventeen-B of this code;
3. Appeals from orders of the Commissioner of the Division of Motor Vehicles pursuant to section two, article five-A, of this chapter, revoking or suspending a license under the provisions of section one of this article or section seven, article five of chapter;
4. Appeals from decisions or orders of the Commissioner of the Division of Motor Vehicles denying, suspending, revoking, refusing to renew any license or imposing any civil money penalty for violating the provisions of any licensing law contained in chapters seventeen-B and seventeen-c that are administered by the Commissioner of the Division of Motor Vehicles; and
5. Other matters which may be conferred on the office by statute or legislatively approved rules.

§17C-5C-4. Hearing Procedures.

- a. A hearing before the office shall be heard de novo and conducted pursuant to the provisions of the contested case procedure set forth in article five, chapter twenty-nine-a of this code to the extent not inconsistent with the provisions of chapters seventeen-B and seventeen-c of this code. In case of conflict, the provisions of chapters seventeen-B and seventeen-c of this code shall govern.
- b. Notwithstanding any provision of this code to the contrary, the Commissioner of the Division of Motor Vehicles may be represented at hearings conducted by the Office and evidence submitted by the Commissioner may be considered in such hearings with or without such representation.
- c. The West Virginia Rules of Evidence governing proceedings in the courts of this state shall be given like effect in hearings held before a hearing examiner. All testimony shall be given under oath.

OFFICE OF ADMINISTRATIVE HEARINGS

- d. Except as otherwise provided by this code or legislative rules, the Commissioner of Motor Vehicles has the burden of proof.
- e. The hearing examiner may request proposed findings of fact and conclusions of law from the parties prior to the issuance by the office of the decision in the matter.
- f. Hearings shall be exempt from the requirements of article one, chapter twenty-nine-b of this code.

§17C-5C-5. Transition from Division of Motor Vehicles to the Office of Administrative Hearings.

- a. In order to implement an orderly and efficient transition of the administrative hearing process from the Division of Motor Vehicles to the Office of Administrative Hearings, the Secretary of the Department of Transportation may establish interim policies and procedures for the transfer of administrative hearings for appeals from decisions or orders of the Commissioner of the Division of Motor Vehicles denying, suspending, revoking, refusing to renew any license or imposing any civil money penalty for violating the provisions of any licensing law contained in chapters, seventeen-A, seventeen-B, seventeen-C, seventeen-D and seventeen-E of this code, currently administered by the Commissioner of the Division of Motor Vehicles, no later than October 1, 2010.

HEARING REQUESTS

All requests for hearings involving incidents or arrests that occurred prior to June 11, 2010, are under the jurisdiction of the West Virginia Division of Motor Vehicles and should be sent to the following address:

West Virginia Division of Motor Vehicles
P.O. Box 17200
Charleston, WV 25317

All requests for hearings involving incidents or arrests that occurred on or after June 11, 2010 are under the jurisdiction of the Office of Administrative Hearings and should be sent to the following address:

Office of Administrative Hearings
P.O. Box 11750
Charleston, WV 25339

or sent by email to oah@wv.gov